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OFFICE OF PETITIONS

In re Application of :
JAMES McSWIGGEN ET AL :
Application No. 10/693,059 : DECISION GRANTING PETITION
Filed: October 23, 2003 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 03-465-A :
(400.136)

This is a decision on the petition under 37 CFR 1.137(b), filed June 8, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures, mailed February 10, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time or reply having been received, the above-identified application became abandoned on April 11, 2005.

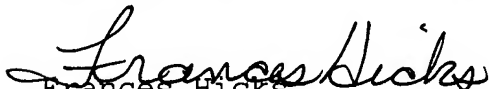
The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply to the Notice of February 10, 2005, (2) the \$1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of July 8, 2004 is accepted as having been unintentionally delayed.

It is noted that the incomplete reply filed on August 12, 2004 included an executed Declaration and Power of Attorney, a \$65 small entity surcharge fee, and a \$510 three month small entity extension of time fee (which at the time of submission should have been a four month extension of time fee). Despite the fact that a small entity statement was submitted on the filing of this application and small entity fees were paid for the filing fee, the surcharge fee and the extension of time fee, a large

entity petition fee of \$1,500 accompanied the present petition to revive. If this application is no longer entitled to small entity status, a statement in accordance with 37 CFR 1.27(g)(2) must be submitted. This application will retain small entity status until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to the Office of Initial Patent Examination for pre-examination processing.


Frances Hicks
Petitions Examiner
Office of Petitions